



**North Carolina Department of Human Resources
Division of Medical Assistance
Audit Section**

P.O. Box 29551 * Raleigh, N.C. 27626-0551 * Courier Service 56-20-06
Telephone (919) 733-6390 * Fax (919) 715-7706

James B. Hunt, Jr., Governor
H. David Bruton, M.D., Secretary

Paul R. Perruzzi, Director
Harold Wiggins, Chief

December 29, 2000

Dear Nursing Facility:

Based on reviews of Medicaid cost reports submitted recently, it appears inconsistencies exist with regard to recordkeeping which document compensation paid to owners. Effective January 1, 2001, certain documentation will be required for services performed by owners and owner-related individuals. These requirements are clarifications of HCFA-15, Section 900 regulations. Furthermore, employers are to comply with requirements addressed in the Fair Labor Standards Act in regard to exempt and non-exempt employees and associated recordkeeping. Failure to properly document services performed by owners and owner-related individuals may result in the disallowance of compensation costs from the provider's Medicaid cost report.

Compensation to Owners and Owner-Related Individuals

Definitions:

"Necessary services" are those services needed for the efficient operation and sound management of the facility such that had the owners or owner-related individual not rendered the services, the facility would have had to employ another person to perform the services.

"Ownership interest" means the entitlement to a legal or equitable interest in any property of the facility whether such interest is in the form of capital, stock, or profits of the facility.

"Owner" - An owner shall be considered any individual with a 5% or more ownership interest in the facility.

"Owner-Related Individual" - An owner-related individual shall be considered an individual who is a member of an owner's immediate family which includes spouse, natural or adoptive parent, natural or adopted child, stepparent, stepchild, sibling or stepsibling, in-laws, grandparents and grandchildren.

"Compensation" means the total benefits received by the owner for the services he renders to the institution. Such compensation shall include:

1. Salary amounts paid for managerial, administration, professional, and other services;
2. Amounts paid by the institution for the personal benefits of the proprietor;
3. The costs of assets and services which the proprietor receives from the institution;
4. Deferred compensation; and
5. Compensation reported for tax purposes.

Allowability of Compensation and Recordkeeping Requirements

Owners of provider organizations often render services as managers,, administrators, or in other capacities. In such cases, it is equitable that reasonable compensation for the necessary services rendered be an allowable cost. To do otherwise would disadvantage such owners in comparison with corporate providers or providers employing non-owner persons to perform the same services.

Distribution of profits is a form of compensation paid to a proprietor. However, this form of compensation is not an allowable cost of the facility because it is not contingent on performance of necessary services. Where a proprietor renders necessary services for the institution, the institution is, in effect, employing his services and a reasonable compensation for these services is an allowable cost. The salaries of owners and owner-related employees are subject to the requirements of reasonableness. Reasonableness of compensation will be determined by reference to or in comparison with compensation paid for comparable services and responsibilities in comparable institutions or it may be determined by other appropriate means. Where the services are rendered on less than a full-time basis, the allowable compensation should reflect an amount proportionate- to a full-time basis.

Compensation for services of owners and owner-related employees shall be allowable costs provided these services are adequately documented to be necessary, and such employees are adequately documented to be qualified to provide these services. Adequate documentation shall include but not limited to:

- 1 . Date and time of services (contemporaneous recordkeeping);
2. Position description;
3. Individual's educational qualifications, professional title, and work experience;
4. Type and extent of ownership interest;
5. Relationship to and name of owner (if an owner-related individual).

If you have any questions regarding the above policy, please contact Chris Brady, Audit Manager, Audit Section at (919) 733-6390.

Sincerely,



Harold Wiggins
Chief - Audit Section

cc: Allen Gambill, Assistant Director-Financial Operations
Chris Brady, Audit Manager
Jim Panton, Rate Setting Chief
Allison Walker, NC Healthcare Facilities Association